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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,690	01/24/2006	Claude Baudrenghien	1717214	2525

24240 7590 04/23/2007  
CHAPMAN AND CUTLER  
111 WEST MONROE STREET  
CHICAGO, IL 60603

EXAMINER
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O HERN, BRENT T

ART UNIT	PAPER NUMBER
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1772

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/23/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/565,690

Applicant(s)

BAUDRENGHIEN ET AL.

Examiner

Brent T. O'Hern

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claims***

1. Claims 1-20 are pending.

### ***Examiner's Note***

2. On page 2, paragraph 1 of the Office Action mailed 28 December 2006 the Examiner advised Applicant to consider deleting all reference numbers or to carefully review the claims and be sure Applicant is consistent in using reference numbers. Applicant decided to not delete the reference numerals and unfortunately did not closely review the amendments with respect to the reference numerals. Said oversight has resulted in the introduction of significant indefiniteness in the claims as discussed below. Applicant is advised to carefully review all of the claims and any amendments thereto to be sure the indefinite issues are removed.

## **WITHDRAWN REJECTIONS**

3. The 35 U.S.C. 112, second paragraph rejections of claims 1-20 of record in the Office Action mailed 28 December 2006, page 2, paragraph 1 have been withdrawn due to Applicant's amendments in the Paper filed 14 March 2007.
4. The 35 U.S.C. 102(b) rejections of claims 1-6, 9 and 11-15 as being anticipated by Sanders (US 4,709,399) of record in the Office Action mailed 28 December 2006, page 3, paragraph 2 have been withdrawn due to Applicant's amendments in the Paper filed 14 March 2007.
5. The 35 U.S.C. 103(a) rejections of claims 7 and 16-18 as being unpatentable over Sanders (US 4,709,399) in view of Kane, JR. et al. (US 2004/0173492) of record in

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the Office Action mailed 28 December 2006, page 6, paragraph 3 have been withdrawn due to Applicant's amendments in the Paper filed 14 March 2007.

6. The 35 U.S.C. 103(a) rejections of claims 8 and 19-20 as being unpatentable over Sanders (US 4,709,399) in view of Cooley et al. (US 5,660,925) of record in the Office Action mailed 28 December 2006, page 7, paragraph 4 have been withdrawn due to Applicant's amendments in the Paper filed 14 March 2007.

7. The 35 U.S.C. 103(a) rejections of claim 10 as being unpatentable over Sanders (US 4,709,399) of record in the Office Action mailed 28 December 2006, page 8, paragraph 5 have been withdrawn due to Applicant's amendments in the Paper filed 14 March 2007.

### NEW REJECTIONS

#### *Claim Rejections - 35 USC § 112*

8. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "**said wall**" in line 3, "**said slot**" in line 4, "**the envelope wall**" in line 5, "**said faces (16,21)**" in line 8, "**the wall (2)**" in line 10, "**a first slip (9)**" in line 11, "**adhesive strip**" in line 14; claim 2 recites "**the wall (2)**" in line 1 and "**self adhesive strip (10)**" in line 3; claim 6 recites "**each pocket**" in line 2; claim 7 recites "**polyethylene layer (30)**" in line 3; claim 9 recites "**the outer wall (4)**" in lines 6-7; and claims 16-18 recite "**outer sheet (2,6)**" in line 2 of all claims. There is insufficient antecedent basis for these limitations in the claims.

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The phrase “**having an outer wall (2) portions**” in claim 1, lines 2-3 is vague and indefinite since it is contradictory since “portions” infers multiple wherein “an” infers single.

The phrase “**wherein the wall (2) of the envelope (3) extends beyond (4) the second lip (23) of the slot (5), for a distance at least equal to a length of the second zone (14) of the self adhesive strip (10)**” in claim 2, lines 1-2 is vague and indefinite since it is unclear what is the relationship between wall (2) and beyond (4). Furthermore, it is unclear how wall (2) can be equal to second zone (14) when second zone (14) continues to zone #12, as illustrated in FIG-2.

Clarification and/or correction is required.

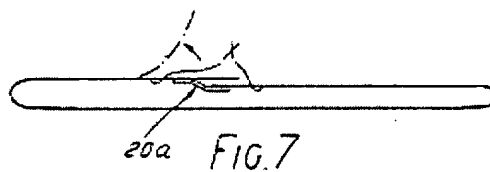
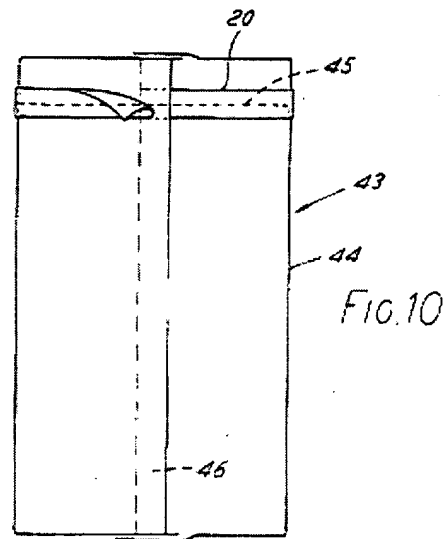
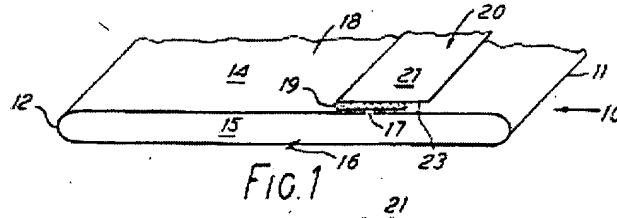
***Claim Rejections - 35 USC § 102***

9. Claims 1-6 and 9-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanders (US 4,709,399).

Regarding claims 1-2, Sanders ('399) teaches a sealable package comprising a flexible air impervious envelope (*FIG-1, #10 and col. 2, ll. 5-10*), having outer wall portions of the wall forming slot through the wall and also forming first and second lips adjacent the slot (*FIG-1, portions of wall forming slot with lips on each side of #17*) and an adhesive strip positioned separately to close the slot in the envelope wall (*FIG-1, tape #20 with adhesive #19*), wherein the adhesive strip comprises two parallel adhesive faces (*FIG-1, top and bottom of #19*), wherein a first of the faces is completely covered with a first detachable protective strip (*FIG-1, strip #21*), and wherein a second of the faces comprises a first zone that is fixed to the wall of the envelope (*FIG-1, bottom side of #19 fixed to #14*), along a first lip of the slot and a second zone that

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extends adjacent and beyond the slot and the second lip of the slot (*FIG-1, wherein #19 bridges #17*), and the second zone of the adhesive strip is covered with a second detachable protective strip (See *FIG-10, wherein tape #20 overlaps itself and FIG-7 wherein tape #20a is covered with a second strip.*).



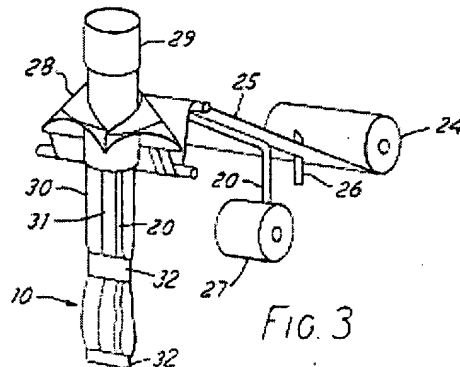
Regarding claim 3, Sanders ('399) teaches a package wherein a length of the above mentioned second zone of the self adhesive strip is at least equal to a length of the first zone of the adhesive strip (*FIG-1, wherein the length of #19 is the same length on both sides of #17*).

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Regarding claims 4 and 11-12, Sanders ('399) teaches a package wherein the slot is rectilinear (*FIG-1, rectilinear slot #17*).

Regarding claim 5, Sanders ('399) teaches a package wherein the slot is arranged close to a rectilinear edge of the envelope (*FIG-1, #17 at edge of #14*).

Regarding claims 6 and 13-15, Sanders ('399) teaches a package wherein the envelope is divided into a plurality of distinct pockets, each pocket communicating with a respective portion of the slot (*FIGs-3 and 1, plurality of pockets inside of plurality of #10, with slot below #20*).



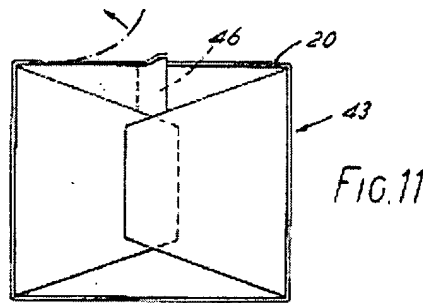
Regarding claims 9-10, Sanders ('399) teaches a method for the airtight packing of a product comprising the steps of:

providing a package (*FIGs 3 and 1, #10 and col. 4, ll. 47-60*);

inserting the product into the envelope, through the slot (*col. 5, ll. 11-15*);

removing the first protective strip covering the second zone of the adhesive strip and sealing the second zone is sealed on the second lip of the slot and onto the wall of the envelope (*col. 4, ll. 39-46 and 15-26*);

removing the second protective strip from the first face of the self adhesive strip (*col. 4, ll. 15-26 and FIGs 10-11, #43*); and



folding the envelope back on itself along the slot, so that the stripped face of the self-adhesive strip is folded back on itself (*col. 7, ll. 4-22 and FIGs 10-11, #43*).

The phrase “**wherein a relative pressure of at least 0.95 bar and a temperature of -40 °C to 55 °C may exist inside the package after packing without losing product outside the envelope**” in claim 10, lines 2-3 is not given any patentable weight since the limitations are optional.

#### ***Claim Rejections - 35 USC § 103***

**10.** Claims 7 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders (US 4,709,399) in view of Kane, JR. et al. (US 2004/0173492).

Sanders ('399) teaches a package discussed above, however, fails to expressly disclose wherein the envelope comprises at least one sheet comprising an outer layer of oriented polyamide, laminated with an inner polyethylene layer.

However, Kane ('492) teaches wherein the envelope comprises at least one sheet comprising an outer layer of oriented polyamide, laminated with an inner polyethylene layer (*paras. 58-59*) for the purpose of providing structure and barrier for the packaged goods (*paras. 57-59*).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to provide an envelope comprising an oriented



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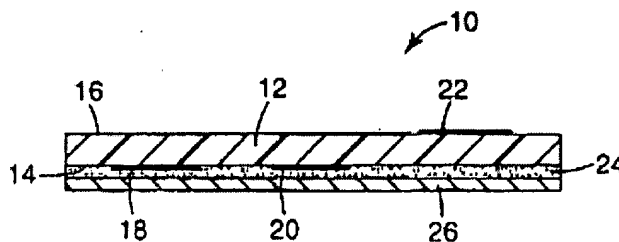
polyamide and polyethylene as taught by Kane ('492) in Sanders ('399) in order to provide structure and barrier for the packaged goods.

***Claim Rejections - 35 USC § 103***

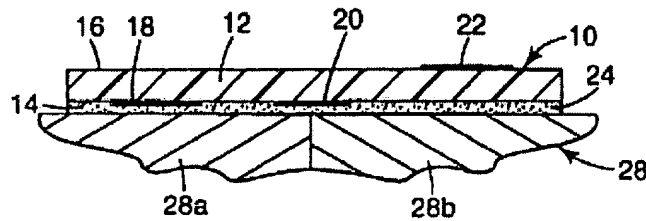
11. Claims 8 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders (US 4,709,399) in view of Cooley et al. (US 5,660,925).

Sanders ('399) teaches a package an adhesive strip covered on two sides with an adhesive (*FIG-10, tape #20 and FIG-7, #20a*), however, fails to expressly disclose wherein the adhesive strip comprises at least one sheet of synthetic olefin polymer, covered on two sides with a rubber based adhesive.

However, Cooley ('925) teaches an adhesive strip comprising at least one sheet in of synthetic olefin polymer, covered on two sides with a rubber based adhesive (See *col. 5, l. 64 to col. 6, l. 9, col. 6, ll. 42-53, col. 9, ll. 62-63 and FIGs 1 and 2, wherein label #10 with olefin film #12 having rubber based adhesive #24 backing joins components #28a and #28b.*) for the purpose of providing an adhesive that is tacky at room temperature, can be adhered to a surface by application of a light pressure and is tamper-indicating (See *col. 5, l. 64 to col. 6, l. 5 and col. 6, ll. 42-45.*).



***Fig. 1***

**Fig. 2**

Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to provide the above adhesive strip as taught by Cooley ('925) in Sanders ('399) in order to provide an adhesive that is tacky at room temperature and can be adhered to a surface by application of a light pressure.

#### **ANSWERS TO APPLICANT'S ARGUMENTS**

**12.** In response to Applicant's argument (*p. 7, para. 2 of Applicant's Paper filed 14 March 2007*) that the references do not meet IATA requirements, it is noted that Applicant has not claimed meeting IATA requirements as structural requirements.

**13.** In response to Applicant's argument (*p. 8, para. 2 to p. 9, para. 2 of Applicant's Paper filed 14 March 2007*) that Sanders ('399) does not teach a "double seal", it is noted that Applicant does not claim a double seal, thus, Applicant's argument is not germane to any issue at bar.

**14.** In response to Applicant's argument (*p. 9, para. 3 to p. 10, para. 1 of Applicant's Paper filed 14 March 2007*) that Sanders ('399) does not teach a "detachable protective strip" like that shown in FIG-1, it is firstly noted that patentability of Applicant's invention is based on the structural limitations of Applicant's claims, not Applicant's figures.

Secondly, it is unclear which protective strip in amended claim #1 Applicant may be inferring to since Applicant makes no mention of either the "first protective strip" or the

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"second protective strip". Thus, Applicant has not precisely argued any of the structural limitations of amended claim #1. Furthermore, Sanders ('399) teaches a second zone of the adhesive strip is covered with a second detachable protective strip (*See FIG-10, wherein tape #20 overlaps itself and FIG-7 wherein tape #20a is covered with a second strip.*).

15. In response to Applicant's argument (*p. 11, para. 3 of Applicant's Paper filed 14 March 2007*) that the references do not teach IATA approved packaging in claims 7 and 16-18, it is noted that Applicant has not claimed IATA approved packaging as structural requirements, thus Applicant's argument is not germane to any issue at bar.

16. In response to Applicant's argument (*p. 11, paras. 4-5 of Applicant's Paper filed 14 March 2007*) that the envelope of Cooley ('925) is unrelated to the envelope of Applicant's invention, it is noted that said inventions are clearly related art and if one were to follow Applicant's reasoning then no two inventions would be of related art, thus making 35 USC 103 meaningless. This is clearly contrary to the intent of the drafters of said statute.

17. In response to Applicant's argument (*p. 12, para. 2 of Applicant's Paper filed 14 March 2007*) that Sanders ('399) does not teach IATA approved packaging in claim 10, it is noted that Applicant has not claimed IATA approved packaging as structural requirements, thus Applicant's argument is not germane to any issue at bar.

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent T. O'Hern whose telephone number is (571) 272-0496. The examiner can normally be reached on M-F, 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-2172. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Brent T O'Hern  
Examiner  
Art Unit 1772  
April 4, 2007

  
NASSER AHMAD  
PRIMARY EXAMINER 4/18/07